

118TH CONGRESS  
1ST SESSION

# H. R. 5930

To amend title 5, United States Code, to require a clarification of the underlying authority for a rulemaking.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2023

Mr. POSEY introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on the Judiciary

---

## A BILL

To amend title 5, United States Code, to require a clarification of the underlying authority for a rulemaking.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rulemaking Account-  
5 ability and Reform Act of 2023”.

6 **SEC. 2. RULEMAKING.**

7 Section 553 of title 5, United States Code is amend-  
8 ed—

1           (1) in subsection (b)(2), by inserting “including  
2           a complete recitation of each specific authority  
3           under law that grants the agency the power to en-  
4           gage in the rule making, and for each provision of  
5           the proposed rule the specific authority or authori-  
6           ties under law that grant the agency the power to  
7           promulgate the provision together with an expla-  
8           nation of why the cited authority or authorities pro-  
9           vide such power” after “proposed”; and

10           (2) by adding at the end the following:

11           “(e) FINAL RULE STATEMENT OF AUTHORITY.—  
12           Every rule made final shall include a complete recitation  
13           of each specific authority under law that grants the agency  
14           the power to engage in the rule making, and for each pro-  
15           vision of the proposed rule the specific authority or au-  
16           thorities under law that grant the agency the power to  
17           promulgate the provision together with an explanation of  
18           why the cited authority or authorities provide such  
19           power.”.

20           **SEC. 3. SCOPE OF REVIEW.**

21           Section 706(2) of title 5, United States Code is  
22           amended—

23           (1) in subparagraph (E), by striking “or” at  
24           the end;

1           (2) in subparagraph (F), by striking the period  
2           at the end and inserting a semicolon; and

3           (3) by adding at the end the following:

4                   “(G) in the case of a final agency rule,  
5                   whenever the agency’s assertion of authorities  
6                   pursuant to section 553(e) exceeds or does not  
7                   reflect the powers and authorities in fact con-  
8                   fided to the agency by law; or

9                   “(H) in the case of an agency action or  
10                  rule that claims the authority or power to re-  
11                  solve a major question, Congress has not pro-  
12                  vided a clear statement of such authority or  
13                  power.”.

14 **SEC. 4. APPLICATION.**

15           Notwithstanding any other provision of law, on the  
16           effective date of this Act no rule may continue in effect  
17           to the extent that it was made in violation of the amend-  
18           ments made by this Act, if such amendments were in ef-  
19           fect on the date such rule was made.

○